

Affirmative Claims

Commanders and leaders of Army and DoD organizations or activities should understand the affirmative claims procedures and the need to identify potential claims to recover money for the Army for damage or loss of property and the costs of medical care provided to Servicemembers, Family members, and eligible retirees.

Procedures:

- As a property owner, the Army is often the victim of a tort, which is a civil wrong that results in damage to a person or property. In many cases, the Army has a right to assert a claim against the tortfeasor (*i.e.*, the wrongdoer) and his or her insurer for damage to Government property. The Army also has the right to assert a claim for the cost of medical care provided by military medical treatment facilities (MTFs) and for the lost wages of the Servicemember resulting from the negligence of the tortfeasor. The Claims Office at the Netherlands Law Center asserts affirmative claims against tortfeasors and their insurers for property damage and the cost of medical care provided by military MTFs and payments made by Tri-Care.
- Recovery funds: Funds recovered for personal property damage claims in favor of the Army are returned to the Government. Funds recovered for damage to real property are deposited into the local account available for the repair or replacement of the real property. Monies recovered for care provided by or through the local MTF are deposited into the local MTF Operation and Maintenance (O&M) account. Funds recovered for lost pay are deposited to the installation O&M account that supports the operation of the command, activity, or other unit to which the member was assigned. Funds received for amounts paid by Tri-Care are deposited to the Tri-Care reimbursement account.
- As an alternative to money damages, a recovery judge advocate or recovery attorney may accept, in lieu of money, the property's restoration to its prior condition. Before a release based on a repair or replacement in kind may be executed, the technical staff officer responsible for the type of property in question must certify that this procedure is acceptable and that the repair or replacement in kind was satisfactorily accomplished. This procedure may also be used in cases involving damaged real property.
- Investigations are often conducted by unit claims officers (UCOs), who are encouraged to coordinate with the Claims Office at the Netherlands Law Center at

DSN: 360-7683 or Commercial line at +31(0) 46-443-7683. The UCO's commander or head of the organization is responsible for the adequacy of the investigation, but not for determining liability. The investigation is forwarded to the recovery judge advocate or recovery attorney who makes a determination of liability and asserts a demand upon the prospective defendant and the insurer, if known.

Current Status:

The Claims Office at the Netherlands Law Center asserts affirmative claims on behalf of the Geilenkirchen Clinic, and the Department of the Army for medical care for Servicemembers, their Family members, and eligible retirees and for installation property damage or loss, and is prepared to work with your organization to protect the Army's financial interest.

Please contact the Claims Office at the Netherlands Law Center, USAG Schinnen for all claims related questions at DSN 360-7683 or +31 (0) 46-443-7683.